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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 3, 2001

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

MUTUAL BENEFITS CORPORATION,
SAMIR GHOSH,
DAVID HARDY,
FRED WOODBURY,
GLENN BOLLINGER, and
JIM EPPS,

CASE NO. SEC000005
CASE NO. SEC000006
CASE NO. SEC000007
CASE NO. SEC000009
CASE NO. SEC000010
CASE NO. SEC000012

Defendants

SETTLEMENT ORDER

The Commission's Division of Securities and Retail Franchising ("Division") instituted an investigation of Defendants, Mutual Benefits Corporation ("MBC"); Samir Ghosh, David Hardy, Fred Woodbury, Glenn Bollinger, and Jim Epps ("Individual Defendants"), pursuant to § 13.1-518 of the Virginia Securities Act, ("Act"), § 13.1-501 et seq. of the Code of Virginia. On February 2, 2000, the Division issued a Rule to Show Cause in this matter.

As a result of its investigation the Division issued an Amended Rule to Show Cause on March 3, 2000, in which the Division alleged:

1. MBC offered and sold viatical settlement contracts to residents of Virginia from February 19, 1995 to July, 1998.

2. Viatical settlement contracts are investment contracts and therefore securities as defined in § 13.1-501 of the Act.

3. Individual Defendants offered and sold viatical settlement contracts to eighty-seven (87) residents of Virginia.

4. Individual Defendants were not registered as securities agents to offer or sell securities under § 13.1-504 A of the Act.

5. MBC transacted business by and through its securities agents without registration as a broker-dealer or issuer in violation of § 13.1-504 A of the Act.

6. MBC employed unregistered Individual Defendants in violation of § 13.1-504 B of the Act.

7. MBC and Individual Defendants offered and sold unregistered securities in this state in violation of § 13.1-507 of the Act.

8. MBC and Individual Defendants provided prospective purchasers with disclosure materials that were used to obtain money by means of untrue statements of material fact and omission to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of § 13.1-502(2) of the Act.

MBC and Individual Defendants filed an answer denying the allegations, and neither admit nor deny the allegations, but

admit to the Commission's jurisdiction and authority to enter this order.

As a proposal to settle all matters arising from the allegations made against them, MBC and Individual Defendants have offered and agreed to the entry of the following findings of fact and conclusions of law and to comply with the following terms and undertakings:

Findings of Fact and Conclusions of Law

- (1) MBC was not registered as a broker-dealer pursuant to § 13.1-504 A of the Act when the transactions alleged in the Rule to Show Cause was entered.
- (2) The viatical settlements contracts alleged in the Amended Rule to Show Cause were not registered pursuant to § 13.1-507 of the Act and MBC made no filings with the Commission in connection with any claimed exemption from registration under the provisions of the Act.
- (3) One or more of the sales of viatical settlements contracts were inadvertently made in violation of the registration provisions of the Act.
- (4) There is no factual basis for a finding of any violations of the Act by MBC or Individual Defendants in connection with any transaction with any person named on the stipulation filed under seal with the

Commission on September 28, 2000. References hereinafter to transactions or persons alleged in the Amended Rule to Show Cause (including Exhibit B thereof) shall exclude the transactions involving such persons.

Terms and Undertakings

- (1) MBC shall refrain from any conduct which constitutes a violation of the Act or the Rules promulgated thereunder.
- (2) MBC and Individual Defendants shall not offer to sell or sell any fractional interests in any viatical settlement contract in the Commonwealth of Virginia without registering such fractional interest under the Act or making the required filing, either by registration or appropriate exemption from registration.
- (3) MBC shall make a written offer of rescission, rescission to be the amount of the original investment from the date of purchase plus six (6%) percent interest, to the residents of Virginia shown on Exhibit B to the Amended Rule to Show Cause.
 - (a) The letter with the proposed rescission offer will be sent to the Division and approved prior

to distribution to the Virginia investors. Such approval shall not be unreasonably withheld.

- (b) Within thirty (30) days of the Commission's entry of this settlement order, MBC will file a proposed rescission plan with the Division. Once the Division approves the proposed rescission plan, MBC will have thirty (30) days to distribute the rescission offer. Such approval shall not be unreasonably withheld. The approved rescission plan must be completed within twelve months of the Division's approval of the plan.
- (c) The rescission plan will not include any viatical settlements contracts where the life insurance policy has matured and principal and interest has been paid to the investor. Each rescission letter will cover one viatical settlements contract. Contracts will not be aggregated by investor.
- (d) Evidence of compliance with the provisions of this section will be filed with the Division within thirty (30) days of the date of the completion of the rescission plan; that such evidence will be in the form of an affidavit, executed by the president of MBC and which shall

contain the following information: (i) the date on which payment was remitted to each investor, (ii) the amount of payment remitted to each investor, or, if applicable, (iii) a copy of the signed rejection by any investor who refuses the offer of rescission or proof of mailing to investor if there has been no response.

(e) To the extent the rescission plan applies to any Virginia investor who in a single transaction purchased only an entire interest (as opposed to a fractional interest) in one or more life insurance policies, this settlement shall not prejudice any future application by MBC seeking a determination, order, ruling, or promulgation of a regulation to the effect that interests in entire life insurance policies are not securities under the Act or other current laws or regulations.

(4) Pursuant to § 13.1-521 of the Act, MBC shall pay a fine in the amount of ten thousand dollars (\$10,000) to the Commonwealth.

(5) Pursuant to § 13.1-518 B of the Act, MBC shall pay to the Commission thirty thousand (\$30,000) dollars to defray the costs of investigation.

(6) Individual Defendants shall refrain from any conduct that constitutes a violation of the Act or the Rules promulgated thereunder.

The Division has recommended that MBC and Individual Defendants' offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

NOW, THEREFORE, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, MBC and Individual Defendants' offer of settlement is accepted.

(2) MBC and Individual Defendants fully comply with the aforesaid terms and conditions of the settlement.

(3) MBC and Individual Defendants refrain from any further conduct which constitutes a violation of the Act or the Rules promulgated thereunder.

(4) Pursuant to § 13.1-521 of the Act, MBC pay a penalty to the Commonwealth in the total of ten thousand (\$10,000) dollars upon entry of this settlement order.

(6) Pursuant to § 13.1-518 B of the Act, MBC pay to the Commission the total sum of thirty thousand (\$30,000) dollars for the cost of the Division's investigation. Payment of the costs of investigation will be made in the following way:

(a) Ten thousand (\$10,000) dollars within thirty (30) days of entry of this settlement order.

(b) Ten thousand (\$10,000) dollars within sixty (60) days of entry of this settlement order.

(c) Ten thousand (\$10,000) dollars within ninety (90) days of entry of this settlement order.

(7) The sum of forty thousand (\$40,000) dollars as described in paragraphs (5) and (6) above is accepted.

(8) All issues raised in this matter are hereby settled and this matter is dropped from the Commission's docket and the papers herein placed in the file for ended causes.

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ADMISSION AND CONSENT

The Defendants admit to the jurisdiction of the State Corporation Commission as to the party and subject matter hereof and, without admitting or denying the allegations made herein by the Division of Securities and Retail Franchising, hereby consent to the form, substance and entry of the foregoing Settlement Order.

The Defendants further state that no offer, tender, threat or promise of any kind whatsoever has been made by the Commission any member, employee, agent or representative thereof in consideration of the foregoing Settlement Order.

Dated: _____

Mutual Benefits Corporation

By: _____

Title: _____

Seen and approved by:

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Richard Kraut
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Dated: _____

Samir Ghosh

Dated: _____

David Hardy

Dated: _____

Fred Woodbury

Dated: _____

Glenn Bollinger

Dated: _____

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